

# Virginia Regulatory Town Hall

## Exempt Action Final Regulation Agency Background Document

<b>Agency Name:</b>	State Air Pollution Control Board
<b>Regulation Title:</b>	Regulations for the Control and Abatement of Air Pollution
<b>Primary Action:</b>	9 VAC 5-40-90 of 9 VAC 5 Chapter 40
<b>Secondary Action(s):</b>	9 VAC 5-50-90 of 9 VAC 5 Chapter 50
<b>Action Title:</b>	Visible Emissions and Fugitive Dust/Emissions (Rev. C00)
<b>Date:</b>	November 6, 2002

Where an agency or regulation is exempt in part or in whole from the requirements of the Administrative Process Act (§ 2.2-4000 *et seq.* of the *Code of Virginia*) (APA), the agency may provide information pertaining to the action to be included on the Regulatory Town Hall. The agency must still comply the requirements of the Virginia Register Act (§ 2.2-4100 *et seq.* of the *Code of Virginia*) and file with the Registrar and publish their regulations in a style and format conforming with the *Virginia Register Form, Style and Procedure Manual*. The agency must also comply with Executive Order Fifty-Eight (99) which requires an assessment of the regulation's impact on the institution of the family and family stability.

This agency background document may be used for actions exempt pursuant to § 2.2-4006 A through 4 at the final stage. Note that agency actions exempt pursuant to § 2.2-4006 A 1 through 4 of the APA do not require filing with the Registrar at the proposed stage.

### Summary

*Please provide a brief summary of the regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment.*

The regulations concerning visible emissions and fugitive dust/emissions (Rules 4-1 and 5-1) have been revised because of conflict with Virginia statutory law: § 62.1-44.34:18 of the Code of Virginia prohibits the discharge of oil upon land. 9 VAC 5-40-90 2 and 9 VAC 5-50-90 2 have been amended to remove the provision that allows oil to be applied to dirt roads, material stockpiles, and other surfaces which may create airborne dust.

In addition to revising the regulations to comply with the Code, some minor editorial changes are necessary, primarily for consistency with the Regulations for the Control and Abatement of Air Pollution.

## Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency, including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

On November 6, 2002, the State Air Pollution Control Board adopted final amendments to regulations entitled "Regulations for the Control and Abatement of Air Pollution," specifically, Visible Emissions and Fugitive Dust/Emissions (9 VAC 5 Chapter 40, Article 4, and 9 VAC 5 Chapter 50, Article 4). The regulation amendments are to be effective on February 1, 2003.

The regulation amendments are exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act by the provisions of § 2.2-4006 A 4 a of the Administrative Process Act because they are necessary to conform to Virginia statutory law.

In adopting these amendments, the Board affirmed that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.

## Additional Information

*Please indicate that the text of the regulation, the reporting forms the agency intends to incorporate or use in administering the proposed regulation, a copy of any documents to be incorporated by reference are attached.*

*Please state that the Office of the Attorney General (OAG) has certified that the agency has the statutory authority to promulgate the regulation and that it comports with applicable state and/or federal law.*

*If the exemption claimed falls under § 2.2-4006 A 4 c of the APA please include the federal law or regulations being relied upon for the final agency action.*

The text of the regulation is attached.

Section 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia) authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare. Letters providing written assurance from the Office of the Attorney General that (i) the Board has statutory authority to promulgate the final regulation amendments and (ii) the amendments qualify as an exemption under § 2.2-4006 A 4 a of the Administrative Process Act are available upon request.

## Family Impact Statement

*Please provide an analysis of the impact of the regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights*

*of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment: 4) increase or decrease disposable family income.*

It is not anticipated that these regulation amendments will have a direct impact on families. However, there will be positive indirect impacts in that the regulation amendments will ensure that the Commonwealth's air pollution control regulations will function as effectively as possible, thus contributing to reductions in related health and welfare problems.

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